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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,729	01/11/2002	Daniel J. Matthews	GB920010025US1	1601

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IBM Corp, IP Law Dept T81/503
3039 Cornwallis Road
PO Box 12195
Research Triangle Park, NC 27709-2195

EXAMINER

CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/044,729

Applicant(s)

MATTHEWS ET AL.

Examiner

Dohm Chankong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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DETAILED ACTION

1> This action is in response to Applicant's amendment and remarks. Claims 1-24 are presented for further examination.

2> This is a final rejection.

Response to Arguments

3> Applicant's arguments with respect to claims 1-24 have been fully considered but are not persuasive. Applicant is arguing in substance (a) Johnson does not teach a repository for holding information detailing products, and thus does not teach a repository for holding information about how those installed products are configured; and (b) Johnson assumes that programs are capable of running on any machine and thus there is no need to "consider the other products [sic...requirements?] a program may require to run".

In regards to (a), this is not persuasive in light of Applicant's own specification. The abstract states : "a process is defined which maintains in a host repository, such as a flat file or a database...". Johnson's qualifile is described as a flat ASCII file [column 6 «lines 25-28»]. Clearly, Applicant has contemplated utilizing a flat file, similar to Johnson's Qualifile, as a "repository". Applicant further asserts that the repository does not hold information about how these products are configured as Johnson's qualifile generally contains performance information, such as CPU utilization, number of threads, memory size, etc. First, Johnson describes this information is part of a predicate expression that comprises syntactic and semantic embodiments [see Johnson, column 6 «lines 33-48»]. Predicate expression as

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defined by Johnson is : "Each candidate target machine in the list has an associated user configurable performance predicate that dictates how the program will be executed in the network" [see column 1 «lines 36-39»]. This is particularly relevant because the qualifile is used to determine eligible machines that can run the program based on the performance predicate (requirements). This functionality corresponds to the host information as claimed. Applicant's specification lends further guidance : "Configuration information in the preferred embodiment, comprises: DB2 level and configured tables; "productA" servers and configured applications; operating system type, level, and *cpu usage*; and program languages available." [emphasis added] [see Applicant's spec. page 14 «lines 5-9»]. Clearly, Applicant has contemplated utilizing *cpu usage*, as Johnson has with his CPU utilization, as part of the configuration information for installed products.

In regards to (b), Applicant's arguments are not persuasive because Johnson discloses "the source machine determines target machine eligibility according to configured constraints and selects a target machine from a list of target machines eligible to execute the program." [abstract]. Based on this disclosure, Applicant's assertion that Johnson assumes programs are capable of running on any machine do not seem accurate as programs can only be executed on eligible machines, not all machines. This determination of eligible machines corresponds in particular to Applicant's limitation in claim 1 : "identifying...one or more data processing hosts capable of executing the program". Johnson's qualifile is utilized to set forth the list of parameters necessary to run the program, and only those machines that are capable are selected to do so.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4> Claims 1-7, 9-15, and 17-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (US 5,938,722).

5> In regards to claim 1 Johnson discloses a data processing method for running on a data processing host in a data processing system, the data processing system comprising a plurality of data processing hosts(fig. 13a-13k), the method comprising the steps of:

- maintaining a host information repository (i.e. Configurable list, Qualifile, col. 7 lines 10-12) comprising host information for each of two or more of the plurality of data processing hosts, the host information comprising details of products installed on the host and how such installed products are configured (col. 1 lines 32-34, col. 6 lines 22-41 where : Johnson's qualifile contains details of the products including CPU utilization. Applicant discloses in his specification that configuration information includes CPU usage);

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- obtaining program requirements (i.e. predicate, Qualifile) comprising details relating to host configuration required for executing a program (column 1 «lines 33-38», col. 3 lines 25-29, col. 6 lines 22-24, 26-41));
- identifying from the host information repository (i.e. Configurable list) according the obtained program requirements one or more data processing hosts capable of executing the program (col. 1 lines 38-40 and 64-67, col. 3 lines 11-12, col. 6 lines 22-67, col. 7 lines 4-10 where : a machine must be capable of executing the program); and
- causing execution of the on one of the one or more data processing hosts program identified as capable of executing the program (col. 3 lines 11-12, col. 7 lines 56-60, col. 8 lines 4-10)

6> In regards to claim 2 Johnson discloses a method as claimed in claim 1 further comprising the step receiving the host information for a data processing host in a message sent from the data processing host (col. 6 lines 54-59, col. 7 lines 4-7).

7> In regards to claim 3 Johnson discloses a method as claimed in either claim 1 or claim 2 wherein the host information further comprises details relating to host state (i.e. exceeding on not exceeding performance constraints, col. 9 lines 48-52).

8> In regards to claim 4, Johnson discloses a method as claimed in claim 1 wherein the

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- the program requirements further comprise details relating to one or more host configurations required for the program to communicate with (col. 3 lines 25-29, col. 6 lines 22-24, 26-41);
- the identifying step further identifying one or more data processing hosts suitable for the program to communicate with (col. 1 lines 38-40, col. 3 lines 11-12, col. 6 lines 22-67, col. 7 lines 4-10); and
- the causing step further making the program aware of one or more data processing hosts suitable ((i.e. building of the Qualifile), for it to communicate with (col. 7 lines 16-21).

9> In regards to claim 5, Johnson discloses a method as claimed in claim 1 further comprising the steps of:

- receiving (i.e. Source Receives) a program execution policy comprising a subset of program requirements (col. 3 lines 25-29, col. 6 lines 22-24, 26-41);
- identifying from a program repository comprising program requirements for a plurality of programs one or more programs with program requirements which comprise the program execution policy (fig 2. col. 3 lines 66-67 col. 4 lines 1-5, 30-32, col. 5 lines 63-67, col. 6 lines 8-19); and
- repeating the obtaining, identifying one or more data processing hosts capable of executing the program, and causing steps for each of the one or more programs with program requirements which comprise the program execution (col. 1 lines 63-67. col. 2 lines 1-7)

10> In regards to claim 6, Johnson discloses a method as claimed in claim 1 further comprising the steps of:

- receiving (i.e. Source Receives) a host execution policy (i.e. local candidate configuration) comprising a subset of host information (col. 6 lines 58-59,61-67) ;
- identifying (col. 7 lines 4-7,10-15) from the host repository (i.e. Qualifile) one or more data processing hosts with host information which comprises the host execution policy; and
- repeating the obtaining, identifying one or more data processing hosts capable of executing the program, and causing steps for a plurality of programs (col. 1 lines 63-67. col. 2 lines 1-7, col. 9 lines 48-53)
- wherein identifying one or more data processing the hosts capable of executing the program step considers only the one or more data processing hosts with host information which comprises the host execution policy (col. 9 lines 48-57).

11> In regards to claim 7, Johnson discloses, a method as claimed in claim 1 wherein program requirements further comprise one or more other programs and wherein the method further comprises the step of:

- Repeating the obtaining, identifying one or more data processing hosts capable of executing the program (col. 1 lines 63-67. col. 2 lines 1-7, col. 9 lines 48-53), and
- causing steps for each of the other programs identified in the program requirements (col. 3 lines 11-12, col. 7 lines 56-60, col. 8 lines 4-10).

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12> As to claims 9-15 and 17-24, as they do not teach or further define over the previously claimed limitations, they are similarly rejected for at least the same reasons set forth for claims 1-7.

Claim Rejections - 35 USC § 103

13> The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

14> Claim 8, 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 5,938,722) in view of Silva et al. (US 6,360,268).

15> In regards to claim 8, Johnson discloses a method as claimed in claim 1 Johnson fails to teach wherein the program is for testing a product installed one or more of the plurality of data processing hosts.

Silva et al. further discloses a method as claimed in claim 1 as modified above, wherein the program is for testing a product (i.e. test machine col. 4 lines 66-67, col. 5 lines 5) installed one or more of the plurality of data processing hosts.

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It would be obvious to one of ordinary skill in the art at the time of the invention to modify Johnson et al. By having program for testing a product, as taught by Silva et al., in order to render the system extremely adaptable and flexible as well as being able to accommodate the automatic testing of software and hardware across multiple machines by a plurality of users in an distributed environment (See Silva col. 1 lines 28-41 col.3 lines 10-16, 39-54, col. 18 lines 1-13).

16> As to claims 16 & 24, as they do not teach or further define over the previously claimed limitations, they are similarly rejected for at least the same reasons set forth for claim 8.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

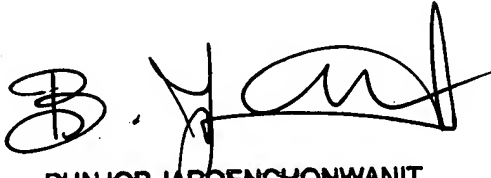
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Thursday [7:00 AM to 5:00 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC



BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER